THE COURT OF APPEALS OF THE STATE OF ALASKA

JEFFERY D. SCOTT, Appellant, v. STATE OF ALASKA, Appellee.	Court of Appeals No. A-4789 Trial Court No. 4TO-S92-83CR MEMORANDUM OPINION AND JUDGMENT* [No. 2815 – November 24, 1993]

Appeal from the District Court, Fourth Judicial District, Tok, Charles Pengilly, Judge.

Appearances: Sheri L. Donaldson, Tanana Chiefs Conference, Inc., Fairbanks, for Appellant. Jeffrey O'Bryant, Assistant District Attorney, Harry L. Davis, District Attorney, Fairbanks, and Charles E. Cole, Attorney General, Juneau, for Appellee.

Before: Bryner, Chief Judge, Coats and Mannheimer, Judges.

COATS, Judge.

Jeffery D. Scott was charged with illegal possession of moose meat in violation of 5 AAC 92.140(a). That regulation provides that no person may possess game or parts of game that the person knows or should know

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* Entered pursuant to Appellate Rule 214 and Guidelines for Publication of Court of Appeals Decisions (Court of Appeals Order No. 3).

were taken in violation of AS 15 or a regulation adopted thereunder. Scott was cited for possessing the meat of a freshly killed moose at a time when there was no open season for moose hunting.

Scott moved to dismiss the charge on the ground that the state did not have jurisdiction to prosecute him. Scott claimed that the moose had been killed on land that had been conveyed to the village corporation of Northway Native, Inc., in accordance with the Alaska Native Claims Settlement Act (ANCSA). He argued that the authority of the village of Northway to regulate hunting on its ANCSA land preempts state authority to regulate hunting on that land.

District Court Judge Charles Pengilly denied Scott's motion to dismiss. Judge Pengilly assumed for purposes of his decision that the moose had been taken on ANCSA land, but ruled that the Alaska Supreme Court's decision in *Native Village of Stevens v. A.M.P.*, 757 P.2d 32 (Alaska 1988), compelled the rejection of Scott's claim of native sovereignty.

Scott's claim is that the Alaska Natives of the Northway Village corporation have the authority, as an aspect of tribal sovereignty, to regulate hunting in their "Indian country."[1] We are bound the Supreme Court's decision in *Native Village of Stevens v. A.M.P.* We conclude, as did the district court, that the village of Northway is not sovereign. In particular, Scott presented no evidence in the trial court that Congress intended the transfer of land to the village under ANCSA to create an Indian reservation.

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[1] "Indian Country" is defined at 18 U.S.C. § 1151.

Absent such evidence, there is no basis on which to consider whether Northway Village might qualify for an exception to the rule of *Native Village of Stevens*.[2] The district court did not err in denying Scott's motion to dismiss.

The judgment of the district court is AFFIRMED.

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[2] Scott presented no evidence in the trial court establishing any basis for concluding that Northway Village's ANCSA lands can be exempted from the Alaska Supreme Court's ruling in *Native Village of Stevens*.